

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

**CHARLES V. MOSLEY v. JAMES MORROW, WARDEN**

**Appeal from the Criminal Court for Bledsoe County**  
**No. 60-2007     J. Curtis Smith, Judge**

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**No. E2008-00053-CCA-R3-HC - Filed July 11, 2008**

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The petitioner, Charles V. Mosley, appeals the dismissal of his petition for writ of habeas corpus. The State has filed a motion requesting that this court affirm the trial court's judgment pursuant to Rule 20, Rules of the Court of Criminal Appeals. The petitioner has failed to meet the mandatory procedural requirements for filing a habeas corpus petition, and the petition fails to establish a cognizable claim for habeas corpus relief. Accordingly, the State's motion is granted, and the judgment of the trial court is affirmed.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court is Affirmed**  
**Pursuant to Rule 20, Rules of the Court of Criminal Appeals.**

NORMA MCGEE OGLE, J., delivered the opinion of the court, in which JAMES CURWOOD WITT, JR., AND D. KELLY THOMAS, JR., JJ., joined.

Charles V. Mosley, Pro Se.

Robert E. Cooper, Jr., Attorney General and Reporter; Renee W. Turner, Assistant Attorney General, and J. Michael Taylor, District Attorney General, for the appellee, State of Tennessee.

**MEMORANDUM OPINION**

According to the record, the petitioner pled guilty in the Sullivan County Criminal Court in 1982 to two counts of first degree felony murder and received concurrent life sentences. The challenged judgments are not in the record before us, and the petitioner did not file a direct appeal of the convictions.

In August 2007, the petitioner filed a petition for writ of habeas corpus in which he claimed that he was denied due process because the trial court failed to ensure that he pled guilty knowingly and voluntarily by questioning him during the guilty plea hearing as required by Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709 (1969); State v. Mackey, 553 S.W.2d 337 (Tenn. 1977); and Rule 11 of the Tennessee Rules of Criminal Procedure. He also claimed that the trial court was without jurisdiction to enter the judgments against him. The habeas corpus court denied the petition because the petitioner failed to attach the judgments of conviction to the petition and failed to establish a

cognizable claim for habeas corpus relief. The court noted that the “proper avenue” for the petitioner to pursue relief was through a petition for post-conviction relief but that it could not treat the current petition as such because the petition had been filed outside the one-year statute of limitations. See Tenn. Code Ann. § 40-30-102(a). In this appeal, the petitioner contends that he is entitled to habeas corpus relief because the trial court’s failure to question him during the plea colloquy pursuant to Boykin, Mackey, and Rule 11 violated his constitutional rights and resulted in an illegal sentence that caused the trial court to forfeit jurisdiction over his case.

The purpose of a habeas corpus petition is to contest void and not merely voidable judgments. Archer v. State, 851 S.W.2d 157, 163 (Tenn. 1993) (citing State ex rel. Newsom v. Henderson, 221 Tenn. 24, 424 S.W.2d 186, 189 (1968)). A writ of habeas corpus may be granted only when the petitioner has established lack of jurisdiction for the order of confinement or that he is otherwise entitled to immediate release because of the expiration of his sentence. See Ussery v. Avery, 222 Tenn. 50, 432 S.W.2d 656 (1968); State ex rel. Wade v. Norvell, 1 Tenn. Crim. App. 447, 443 S.W.2d 839 (1969). The burden is on the petitioner to establish that the judgment is void or that the sentence has expired. State ex rel. Kuntz v. Bomar, 214 Tenn. 500, 504, 381 S.W.2d 290, 291-92 (1964).

By not attaching the judgments of conviction to his petition, the petitioner has failed to comply with the statutory requirements for seeking habeas corpus relief. See Tenn. Code Ann. § 29-21-107(b)(2). The procedural requirements for habeas corpus relief are mandatory and must be scrupulously followed. Archer v. State, 851 S.W.2d 157, 165 (Tenn. 1993). Therefore, the trial court properly denied the petition on that basis alone.

Moreover, the petitioner’s claim regarding his guilty pleas being unknowing and involuntary is not cognizable in a habeas corpus action because, even if true, the judgments merely would be voidable, not void. See Steven L. Anderson v. Turner, No. W2004-00622-CCA-R3-HC, 2005 Tenn. Crim. App. LEXIS 149, \*\*6-7 (Jackson, Feb. 18, 2005). His allegations also do not establish that the trial court lacked jurisdiction to convict or sentence him.

Upon due consideration of the pleadings, the record, and the applicable law, the court concludes that the petitioner has failed to meet the mandatory procedural requirements for filing a habeas corpus petition and has not established that he is entitled to habeas corpus relief. Accordingly, the State’s motion is granted, and the judgment of the habeas corpus court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.

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NORMA McGEE OGLE, JUDGE